

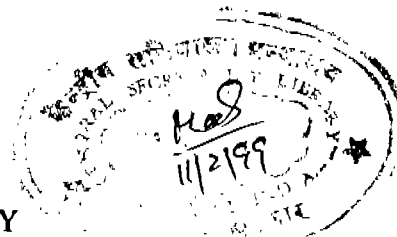


भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on 2-6-98.

BILL NO. 12 OF 1998

A Bill to provide for the licensing of private investigators and vest them with certain powers.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Private Investigators Act, 1998.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

Definitions

1 of 1956

- (i) 'company' means a company incorporated under the Companies Act, 1956.
- (ii) 'Controller' means the Controller of private investigators in the concerned State/ Union territory;
- (iii) 'licence' means a licence issued to a private investigator;

(iv) 'licensee' means a person who has been issued a private investigator's licence;

(v) 'Office' means Office of the Controller;

(vi) 'prescribed' means prescribed by rules made under this Act; and

(vii) 'public record' means a register, file or a document that any member of the public is entitled, by virtue of any enactment, to inspect or peruse whether on payment of a fee or otherwise, or from which any member of the public is entitled, by virtue of any enactment, to obtain a copy or extract, whether on payment of a fee or otherwise.

Private
Investigator.

3. In this Act, a private investigator means a person who carried on any business, either by himself or in partnership with any other person or persons, whereby, at the request of any person as a client, and not as a member of the public and for consideration he seeks or obtains information relating to the personal character, accounts or behaviour of any person or the financial position of any person or a company or the occupation or business of any person or identify the whereabouts of any person or investigates any crime of any matter for his client.

Controller of
Private
Investigators.

4. (1) The Central Government shall, by notification in the Official Gazette, appoint a controller of private investigators in every State.

(2) The Controller shall be assisted by a Deputy Controller and such other administrative staff, as may be necessary to enable the Controller to exercise his functions and powers and to perform his duties under this Act.

Maintenance of
registers.

5. (1) The Controller shall compile and maintain in his office a register of persons to whom private investigators licences have been issued.

(2) Every such register shall indicate the following:—

- (a) the full name, office/residential address and occupation of every licensee;
- (b) the date on which licence was issued;
- (c) the date on which the licence was renewed/is due for renewal;
- (d) the registered office of the licensee and every other place of business specified in the licence;
- (e) details including dates of any suspension or cancellation of licence; and
- (f) any other matter as may be prescribed.

Licences.

6. No person shall work as a private investigator unless he has been issued a licence to that effect.

Punishment.

7. (1) Any person who contravenes the provisions of section (6) shall be liable to imprisonment for a term not exceeding three months or a fine of rupees ten thousand or with both.

(2) Any person convicted under this section shall be permanently disqualified from applying for a licence during his lifetime.

Application for
licence.

8. Any person who wishes to obtain a licence shall apply to the Controller in writing in the form, as may be prescribed, alongwith the prescribed licence fee to be fixed by the Central Government.

Police verifica-
tion before iss-
uance of licence.

9. The Controller may refer any or all applications for licence to the respective local police authority for verification and objection, if any.

Issuance of
licence

10. (1) Where the Controller is satisfied, in respect of an application for a licence, that provisions of this Act have been complied with and that the applicant is qualified to be a private investigator, he shall issue a licence in the form provided in the Schedule.

(2) The Controller shall issue a receipt for the amount of licence fee collected for issue of a licence.

11. Every licence, unless otherwise terminated earlier in accordance with this Act, shall be valid for a period of one year from the date of issue and shall be renewed for a further term of one year on an application submitted to the Controller fifteen days before the expiry of the previous licence.

Renewal of
licence.

12. Every licensee shall produce his licence on demand to—

Production of
licence.

(a) the Controller/Deputy Controller;

(b) any member of the police; and

(c) any person with whom he is dealing with in the course of transaction of business to which the licence relates.

13. Every licensee who changes his employment shall, within seven days, notify to the Controller/Deputy Controller in writing to that effect and also the name and address of his new employer/occupation.

Change in Em-
ployment by
the licence.

14. Every licensee shall, at all times, exhibit at a conspicuous place in the place of his business as specified in the licence, the following details:

Display of
licence.

(a) his full name;

(b) a copy of private investigator's licence;

(c) the name(s) of person(s) who are carrying on the business; and

(d) any other information relating to his business.

15. On receipt of a complaint regarding the working of a licensee or on his own, the Controller shall get the facts of such a complaint verified through the local police.

Verification of
a complaint.

16. Where a complaint against a licensee has been found to be true on verification, the Controller shall issue a notice to the licensee to explain the charge within seven days of the receipt of the notice, and on being satisfied that the explanation given by the licensee is not satisfactory, he shall suspend the licence for a period to be specified or terminate his licence.

Suspension
and
termination of
licence.

17. Any licence suspended or terminated shall be surrendered to the Controller/Deputy Controller within twenty-four hours of such suspension or termination.

Surrender of
licence.

18. An appeal shall lie to the Central Government against the decision of the Controller.

Appeal.

19. Except on being authorised or required, a person who holds or has held a licence under this Act shall not divulge to anyone, any information acquired by him in the course of the business or employment in respect of which the licence is or was held.

Information not
to be divulged.

20. If any licensee while carrying on his business gets or has access to such information which is prejudicial to the national interest or security or unity and integrity of the country or such information which is likely to create communal disharmony or civil disturbances or riots, he shall pass on immediately such information to the Controller/Deputy Controller.

Private investi-
gator to furnish
information
prejudicial to
national
interest, etc.

21. Where on an application, the Controller/Deputy Controller is satisfied that the holder of a licence has lost his licence, the Controller/Deputy Controller, on payment of the prescribed fee, may issue a duplicate of the licence with entries to the effect.

Loss of
Licence.

22. In the Code of Criminal Procedure, 1973,—

Amendment
of Act No. 2
of 1974

(i) in section 2, after clause (t), the following clause shall be inserted, namely:—

“(tt) Private investigator” means any person who has been issued a licence to act as a private investigator under the Private Investigators Act, 1998;” and

(ii) after Chapter XII, the following Chapter and the heading thereunder shall be inserted, namely:—

“CHAPTER XIII

POWERS OF PRIVATE INVESTIGATORS TO INVESTIGATE CRIME

Private investigator's power to investigate cognizable cases

176A. Any private investigator when engaged to investigate any criminal case may, without the order of a Magistrate, investigate a cognizable case.

Examination of witnesses by private investigator

176B. (1) Any private investigator may, on the basis of information furnished to him by his client or otherwise, investigate or cause to be investigated any crime and for this purpose he may orally examine any person supposed to be acquainted with the facts and circumstances of the case.

(2) If any person makes any statement to private investigator or gives any information during investigation of a case, the private investigator may reduce into writing such statement or information made to him and if he does so, he shall make a separate and true record of the statement or information of each such person.

Statement to private investigator not to be signed and use of as statements in evidence

176C. (1) No statement made by any person to a private investigator in the course of an investigation under this Chapter shall, if reduced to writing, be signed by the person making it; nor shall any such statement or record or information thereof or any part of such statement or information or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement or information was given:

Provided that when any witness whose statement has been reduced into writing as aforesaid, is called to depose in such inquiry or trial any part of his statement, if duly proved, may be used by the accused and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872; and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only for explaining any matter referred to in his cross-examination.

1 of 1872.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of section 32 of the Indian Evidence Act, 1872, or to affect the provisions of section 27 of that Act.

1 of 1872.

Explanation—An omission to state a fact or circumstance in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in the particular context shall be a question of fact.

No inducement to be offered.

176D. (1) No private investigator shall offer or make or cause to be offered or made, any such inducement or threat or promise as is mentioned in section 24 of the Indian Evidence Act, 1872.

1 of 1872.

(2) No private investigator shall prevent, by any action or otherwise, any person from making in the course of any investigation under this Chapter, any statement which he may like to dispose on his own free will.

Report of private investigator on completion of investigation.

176E. Every private investigator as soon as an investigation is completed, shall forward to the Magistrate empowered to take cognizance of the offence, a report stating—

(a) the names of the parties;

(b) the nature of information;

(c) the names of persons who appear to be acquainted with the circumstances of the case; and

(d) any such information which in the opinion of the private investigator is required or will be useful in connection with the case.

176F. (1) Every private investigator after submitting a report to the Magistrate shall also forward to the magistrate alongwith the report—

Documents, etc., are also to be forwarded alongwith the report.

(a) all documents or relevant extracts thereof on which the private investigator proposes to rely; and

(b) the statements recorded under section 176B of all the persons whom the private investigator proposes to examine or cause to be examined as his witnesses.

(2) The private investigator may furnish to the concerned parties of the case, copies of all or any of the documents referred to in sub-section (1).”.

23. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules

THE SCHEDULE

(See section 10)

PRIVATE INVESTIGATOR'S LICENCE

.....(Full Name) is authorised (here affix photograph of the Licensee) by this licence to carry on the business of a private Investigator either on his own account or in partnership with any other person who is holder of a private investigator's licence, from the following places of business, namely:—

(a)	***	***	***
(b)	***	***	***
(c)	***	***	***

until the.....

The registered office of the Licensee is at.....(address of registered office)

Dated.....this.....day.....of 19.....

Sd/-
Controller of Private Investigators

STATEMENT OF OBJECTS AND REASONS

In our country, crime has been on the increase from day to day. We have not been able either to prevent or to check the rise in crime. Many of the crimes go unnoticed and innocent persons who are victims of such crimes are put to great hardships. Many criminal cases are not solved at all and because of this the persons affected do not get any relief or compensation.

Because of the numerous crimes and a perennial shortage of police officials, the accused go scot free. Moreover, many of the cases are not at all registered by police and because of inefficient and corrupt practices, no case is filed against accused persons and victims are instead harassed by them.

In the recent years, the concept of private investigators has gained momentum. Now a days, individuals, companies, business organisations take the services of private investigators for solving their problems. In the existing circumstances, it is high time that private investigators be allowed to practice and be encouraged to carry on the business smoothly although with certain restrictions on their practice.

The number of cases of cognizable crimes have been increasing every year. Statistics prove that in 1953, 9802 murder cases were reported. In 1992, 40105 cases of murder were reported. Even in cases of rape, kidnapping, abduction, dacoity, robbery, etc., the increase in the percentage has been manifold since 1953 and out of them only a few cases have been solved and accused have been punished. With the existing police force, the increase in crime cannot be checked. The police force has to be supplemented with the services of private investigators. Although, the services of private investigators may prove costly to the poor, yet in certain cases, the community can come forward and collectively help those poor persons and take up their cases effectively.

With this in view, it is proposed to legalise the services of private investigators with certain restrictions. In order to arrest the increase in rates of crime, it is proposed to empower the private investigators with the power of police in the matter of investigation of crimes and trial before Courts.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 23, 1998.

AMAR PAL SINGH

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for appointment of administrative staff to assist the respective Controller of private investigators. The Bill would, therefore, involve expenditure from the Consolidated Fund of India. An annual recurring expenditure of about rupees fifty lakh is likely to be involved.

A non-recurring expenditure of about rupees ten lakh is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 8 OF 1998

A Bill to provide for the establishment of a permanent Bench of the High Court at Allahabad at Meerut.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the High Court at Allahabad (Establishment of a permanent Bench at Meerut) Act, 1998.

Establishment
of a permanent
Bench of High
Court at
Allahabad at
Meerut

2. There shall be established a permanent Bench of the High court at Allahabad at Meerut and such Judges of the High Court at Allahabad, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Meerut in order to exercise the jurisdiction and power for the time being vested in that High court in respect of cases arising in the districts of Mathura, Agra, Aligarh, Firozabad, Pauri, Tehri, Nainital, Almora, Dehradun, Haridwar, Muzaffarnagar, Meerut, Ghaziabad, Bulandshahr, Bijnore and Moradabad.

STATEMENT OF OBJECTS AND REASONS

There has been a persistent demand for setting up of a permanent Bench of the High Court at Allahabad in western Uttar Pradesh, for the last many years. More than 1,00,000 cases have been pending in Allahabad High Court for quite a long time.

Meerut city is a prominent central place in western Uttar Pradesh where modern communication and transport facilities are available. At present, the people belonging to the districts of western Uttar Pradesh have to travel a long distance to Allahabad in connection with their cases. It is a time consuming and costly affair. In the interest of cheap and speedy justice and convenience of the litigant public, it is necessary to establish a permanent Bench of the High Court at Allahabad at Meerut.

The Jaswant Singh Commission, appointed to go into issues regarding establishment of Benches of various High Courts, had recommended that a Bench of the High Court at Allahabad be established in western Uttar Pradesh.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 23, 1998

AMAR PAL SINGH

BILL NO. 18 OF 1998

A Bill to provide for a national population policy and for measures to control the population in the country and for matters connected therewith.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement

1. (1) This Act may be called the National Population Policy Act, 1998.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

National
Population
Policy

2. The Central Government shall enunciate a new National Population Policy which shall define the incentives and disincentives, that are both practicable as well as effective, to be given to the citizens within one year of the commencement of this Act.

Insertion of
new section
8B in Act No
43 of 1951.

3. After section 8A of the Representation of the People Act, 1951, the following section shall be inserted, namely:—

Disqualification
on ground of
not following
small family
norm

"8B. (1) A person shall be disqualified if he procreates more than two living children:

Provided that the person shall not be disqualified if he, within a period of one year from the date of commencement of the National Population Policy Act, 1998, procreates another living child and thereby the number of living children of that person increase to more than two.

(2) The disqualification referred to in sub-section (1) shall not apply in case of persons having more than two living children on the date of commencement of the National Population Policy Act, 1998."

4. (1) Any Central Government employee or an employee of a public undertaking who has more than two living children, subject to the provisions of sub-sections (4) and (5), shall not be entitled to any increment or promotion in service.

Small family norm for Central Government employees, etc.

(2) Any Central Government employee or an employee of a public undertaking who procreates more than three living children shall be disqualified to continue in service.

(3) Any Central Government employee, who is in occupation of Government accommodation, if procreates more than two living children, subject to the provisions of sub-sections (4) and (5), shall have to pay double the normal rent prescribed for the particular type of Government accommodation allotted to him.

(4) The provisions of sub-sections (1) and (3) shall not apply to those Central Government employees or employees of public undertakings who have more than the prescribed number of living children on the date of commencement of this Act.

(5) The provisions of sub-sections (1) and (3) shall apply to those Central Government employees or employees of public undertakings who, after a period of one year of the coming into force of this Act, procreate another living child and thereby the number of living children of such employees increases to more than the prescribed number.

5. The provisions of section 4 shall apply *mutatis mutandis* to the employees in the private sector.

Application of provisions to employees of private sector.

6. (1) No marriage shall be solemnised between a male, who is less than twenty-four years of age, and a female who is less than twenty years of age.

Minimum age for marriages.

(2) Any Contravention of the provisions of sub-section (1) shall be a cognizable offence and shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to rupees one thousand.

7. Any person who, after a period of one year from the date of coming into force of this Act, procreates more than two living children,—

Penalty for not adopting small family norm.

(a) shall have to pay double the normal charges charged for the supply of water and electricity in the dwelling unit occupied by such person or his family;

(b) the children of such person shall not be provided with free education or other facilities like hostel accommodation, etc.;

(c) shall not be allotted any house or land in a housing scheme launched by either the Union Government or by the State Government; and

(d) shall not be entitled to become a member of any co-operative society registered under the Cooperative Societies Act, 1912, for the purpose of acquisition of a house or plot of land for construction of a house.

8. Any woman, who has two living children, shall be provided with maternity facility in any Government hospital for the birth of her third child if the woman agrees to undergo sterilisation operation after the birth of her third child:

Maternity facilities in certain cases.

Provided that the consent of the husband or any other member of the family or close relative of the woman shall not be required for the sterilisation operation.

9. Any woman employee of the Central Government or of a public undertaking, who undergoes sterilisation operation after the birth of her first or second child, shall be given three months additional salary as an incentive.

Incentive to women employees.

Eligibility for receiving advances at a lower rate of interest.

10. Any persons having one or two living children who undergoes sterilisation operation shall be eligible to receive advance from a bank or a society at a ten per cent. lower rate of interest than the normal rate of interest.

Bonds to be given by the Central Government.

11. (1) Any person below the age of thirty-two years, having no son but having only one or two living daughters, who undergoes sterilisation operation, shall be given by the Central Government a bond of the face value of rupees one lakh which shall be encashable after a period of twenty years from the date of issue.

(2) If the person in whose name the bond has been issued dies before its maturity, the legal heirs of the person shall be entitled to receive the amount of the bond at maturity.

Act to have over-riding effect.

12. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

India's population is about 900 millions today. With 2.4 per cent. of the global land area, India has about 15 per cent. of the world population, thereby making it one of the most densely populated nations of the world. Although, family planning has been a national programme since 1952, the average annual population growth rate has actually increased from 1.25 per cent. to about 2.20 per cent. during the last 39 years, mainly due to the faster and miraculous decline in the death rate.

It is projected that by the turn of the century, India shall have three out of the ten most populous cities of the world, and half the population of these cities would be living in slums under squalid conditions. Actually, without massive public contributions for sewerage, water treatment, air-pollution control and perspective planning, living conditions in all urban areas will progressively deteriorate.

An alarming situation is the apathy of the populace to foresee this population explosion time-bomb which is so glaringly reflected in the last elections. None of the candidates in the recently concluded Parliamentary elections raised this most valid issue while campaigning. How can family planning therefore be called a programme with people's involvement?

The need to accommodate the future needs within the nation's natural capabilities and resources has given rise to unparallel transformation of human values, social institutions and economic structures. The break-down of civic amenities due to over-crowding, law and order situation, unemployment and widening of the gap between the haves and have nots has progressively created an explosive situation. Agricultural land holdings are fast becoming small and uneconomical, the needs for housing are far beyond the available finances and educational facilities are hopelessly inadequate to meet with the existing demands let alone the future ones. There is no balance between population growth and the infrastructure and available opportunities.

Environmentally speaking, the destruction of forests, extinction of species of flora and fauna, spreading of deserts, over-grazing of grasslands, rapid soil erosion and siltation salinity, rapid lowering of water levels, pollution of air and water, phenomenal growth of slums, food and fire wood shortages and the crises in energy generation and water resources have awesome implication of devastation and destruction of the life support systems. In some cases these are beyond repair.

In a world moving towards working out an optimum human carrying capacity of given regions, based on a population, resource and development inter-relationship in already densely populated nation like India can hardly expect to achieve a quality of life by adding further to her numbers.

The provisions of the Bill are, therefore, the most effective method to achieve the targetted goal.

It is estimated that at the pace we are moving on we shall reach the goal of "Net Reproduction Rate" of one not in the year 2000 but in the year 2010. In that case, the enactment of this Bill shall hasten the process by 15 years. By so doing, we could reach zero population growth rate by the 21st century instead of 22nd century and could stabilise our population at around 1200 millions instead of at 1800 millions. Therefore the enactment of this Bill will save the country from a burden of 600 millions additional population.

The laudable goals spelt out in the Directive Principles of State Policy in the Constitution of India can best be achieved if the population explosion is checked. Continuous pregnancies badly affect the health of a woman. The population explosion had added to the poverty of the people and increases the crime rate also. All round progress made by the

country has almost been brought to nought by this single factor. Every additional child born, above the projected rate of population growth, is a liability on the scarce resources of the nation. Time has come where taking of some strong measures has become essential and if such measures are not taken at the earliest the future generations may not forgive us for this lapse.

The Bill offers a comprehensive package deal for facing the challenge and overcoming the problem. There is no other effective way of doing so. The aim of this Bill is to bring about family and social welfare. Adoption of small family norm is necessary to give a good and reasonable standard of living to all concerned irrespective of class, creed, religion or race or section to which they may belong. Checking the population growth rate is not only the responsibility of the Government but of every Indian citizen.

To enable this Bill to have an impact on all sections of the society, the State Governments will have to be moved to introduce corresponding legislation, particularly amending the Panchayat Act, Municipal Act, Co-operative Societies Act, State Civil Service (Conduct) Rules and other related laws in their State Legislatures.

NEW DELHI;
March 23, 1998

AMAR PAL SINGH

FINANCIAL MEMORANDUM

Clause 9 of the Bill provides that any woman employee of the Central Government or of a public undertaking, who undergoes sterilisation operation after the birth of her first or second child, shall be given three months additional salary as an incentive. Clause 11 provide that any person below the age of thirty-two years having no son but having only one or two living daughters and who undergoes sterilisation operation, shall be given by the Central Government a bond of the face value of rupees one lakh which shall be encashable after a period of twenty years from the date of issue of such bond. The exact number of women employees and of persons who undergo sterilisation and qualify for the incentive or for the bond cannot be given for the present. However, the Central Government will have to incur some expenditure on this account from the Consolidated Fund of India. It is estimated that the annual recurring expenditure of about rupees one crore is likely to be involved.

No non-recurring expenditure is likely to be involved.

BILL NO. 15 OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1998.

Amendment of
article 302.

2. In article 302 of the Constitution, the following proviso shall be added at the end, namely:

"Provided that no such law shall impose any restrictions on the freedom of trade or commerce between one state and another or within any part of the territory of India in respect of any agricultural produce or its product or by-product or any industrial product or by-product based on an agricultural product."

Amendment of
article 304.

3. In article 304 of the Constitution, before the existing proviso, the following proviso shall be inserted, namely:

"Provided that the provision of this article shall not apply in respect of any agricultural produce or its product or by-product or any industrial product based on an agricultural product."

STATEMENT OF OBJECTS AND REASONS

At present, many States have imposed restrictions on the movement of agricultural produce and its products or by-products and as a result farmers are unable to sell their products in other States. Sometimes, it so happen that a particular agricultural product is produced in large quantities in one State and there is acute shortage of the product in other States. Due to ban in the movement of the product the farmers are not able to sell their product to those States. They suffer heavy losses due to accumulation of the product and for which there is no market in their home States.

Moreover, it has been seen that prices are different for the same agricultural product in various States. In some States the prices are very low and in some other States it is very high and as a result, though, there is a ban in the movement, illegal trading takes place. With a view to streamlining the prices of all agricultural produce and to ensure adequate protection to the farmers in the matter of sale of their agricultural produce, it is proposed to amend the constitution that there should be no ban in the movement or trade of agricultural produce between one State and another or within any part of our country. For national unity and integrity, these amendments are must and essential.

Hence this Bill.

NEW DELHI;
March 23, 1998

AMAR PAL SINGH

BILL NO. 11 OF 1998

A Bill to provide for population control through compulsory sterilisation of certain persons; measures for promoting small family norm and for matters connected therewith.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Population Control Act, 1998.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definition.

2. In this Act, unless the context otherwise requires, "appropriate Government" means the Central Government in relation to Union territories and the State Government in relation to a State.

Compulsory
sterilisation.

3. Either the husband or the wife in the case of every married couple who have two or more than two living children, on the date of coming into force of this Act, or whose second living child is born after the commencement of this Act, shall be required to undergo compulsory sterilisation:

Provided that the husband or wife, as the case may be, shall not be required to undergo sterilisation if he or she is above the age of fifty years.

4. Subject to the provisions of this Act, there shall be a gap of not less than five years between the birth of two children.

Time gap between the birth of two children.

5. If either the husband or the wife in the case of a married couple, who have only one child on the date of commencement of this Act, voluntarily undergoes sterilisation, the appropriate Government shall provide them with the following benefits, namely:—

Benefits to couple who opt to undergo sterilisation.

(i) Supply of essential commodities such as wheat, milk, sugar and such other essential commodities as may be prescribed at concessional rates;

(ii) free education including higher education to the first child and to the second child, if any, born within one year from the date of commencement of this Act;

(iii) suitable employment to such child after he completes his education; and

(iv) such other benefits as may be prescribed by the rules made under this Act.

6. The appropriate Government shall introduce a compulsory subject relating to population control in all educational institutions for all children who have attained the age of fifteen years, irrespective of class in which they are studying and the course they are pursuing.

Introduction of subject relating to population control in educational institutions.

7. No marriage shall be solemnised between a male who is less than twenty-five years of age and a female who is less than twenty-two years of age.

Minimum age of marriage.

8. (1) There shall be constituted a fund to be called the National Population Control Fund by the Central Government.

National Population Control Fund.

(2) The Central Government and every State Government shall contribute to the fund in such ratio as may be determined by the Central Government.

9. The fund constituted under section 8 shall be utilised for the following purposes namely:—

Utilisation of the Fund

(i) giving of national population control award to that State or Union territory which has recorded least population growth rate during the year; and

(ii) giving of national population control certificate to a person or an organisation which in the opinion of the Central Government, has contributed in awakening the masses towards importance of population control and adoption of various methods for population control.

10. (1) Any person who is serving in connection with the affairs of the Union Government or in any undertaking or organisation under the control of the Union Government and who has only one living child or who has not procreated any child or who is unmarried on the date of coming into force of this Act, shall give an undertaking that he shall not procreate more than one living child.

Provisions relating to Central Government employees, etc.

(2) Any person violating the provisions of sub-section (1) shall be subject to such disciplinary action as may be determined by the Central Government.

11. Any person violating the provisions of this Act shall be punished with rigorous imprisonment for a term which shall not be less than four years and with fine which shall be not less than rupees five thousand.

Punishment.

12. The provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

Act to have over-riding effect.

13. The Central Government may, by notification in the Official Gazette, make rules carrying out the provisions of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Rapid increase in the populations has given birth to many socio-economic problems like poverty, food and housing, unemployment and environmental pollution. We are the second highest populous country after China. China has controlled the rapid growth in its population. It is estimated that our population by the end of this century will cross the figure of one hundred crore. If the present trend continues, it will not be possible to recover from socio-economic problems occurring due to increase in population.

It is, therefore, imperative that certain effective steps be taken to check this menace. Since our resources are limited, proper upbringing of children is possible only if the size of the family is limited. Despite the existence of various birth control measures and various family planning programmes to motivate the people to accept these birth control methods, the problem of population explosion still remains.

The Bill, therefore, seeks to make sterilisation compulsory for all persons having two or more than two living children. It also provides for certain measures like fixing the minimum age for marriages, minimum gap between the birth of two children, etc. and for promoting small family norm in future generation.

NEW DELHI;
March 23, 1998.

T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for certain benefits to be given to those who undergo sterilisation voluntarily. Clause 6 provide for introduction of compulsory subject relating to population control in all educational institutions. Clause 8 provides for establishing National Population Control Fund to which the Central Government shall also contribute. The Central Government shall have to incur some expendiure for implementing the provisions of this Bill in respect of Union territories. The State Governments will incur expenditure in respect of their State out of their respective consolidated funds. The Bill, therefore, will involve an annual recurring expenditure of about rupees ten crore out of the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made relate to matters to detail only, the delegation of legislative power is of a normal character.

BILL NO. 9 OF 1998

A Bill to provide for compulsory voting by the electorate in the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Voting Act, 1998.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) It shall be compulsory for every voter, who is eligible to vote at an election, to exercise his right to vote when called for by the Election Commission:

Compulsory
voting.

Provided that a voter may be exempted from exercising his vote when he is physically incapacitated from an illness of a serious nature and produces a medical certificate from a registered medical practitioner testifying for such incapacity.

(2) The Election Commission shall arrange for mobile ballot box vans in each constituency for casting of votes by those persons who are not in a position to cast their votes at polling booths.

Punishment.

3. Any person, who fails to cast his vote shall be liable to—

- (i) a fine of rupee one hundred; or**
- (ii) one day imprisonment; or**
- (iii) both in case of deliberate avoidance;**
- (iv) forfeiture of his ration card; and**
- (v) be ineligible for contesting any election for a period of six years from the date of his conviction:**

Provided that if such person is an employee of the Union Government or any public sector undertaking owned or controlled by Union Government, such person shall also be punished with—

- (a) forfeiture of four days salary;**
- (b) delay in promotion for a period of one year.**

Reward for voting.

4. Any person who inspite of his illness for physical incapacity has exercised his right to vote at an election or any person who has exercised his right to vote at all elections held during a period of twenty years preceding the commencement of this Act without any break shall be—

- (i) provided with a certificate of reward of value of rupees one thousand;**
- (ii) given preference in jobs in services under the Central Government; and**
- (iii) given preference in admission to the institutions of higher technical education.**

Power to make rules.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

It is a very sad feature that the number of voters who cast their votes is far less than those who are eligible. The average number of votes polled is around 50 per cent. It is a glaring commentary on the responsibility of citizens that the fate of the country's democratic institutions has been left to be decided by about 50 per cent of the electorate. Since the trend of voting from time to time does not show any appreciable increase in the number of those who exercise their franchise, time has come to ensure that all the citizens exercise their sovereign right to choose their representatives, so that the elections may reflect the will of the whole electorate and not merely that of a part of it. In 11th Lok Sabha, in number of States, the voting was less than 40 per cent and in number of cases people had boycotted elections and thus did not vote deliberately.

With a view to increasing the voting percentage, the present Bill purports to make it compulsory for every eligible voter to vote and to provide for exemption only in cases where the voter is physically incapacitated due to illness of serious nature. In these cases also Election Commission shall arrange for mobile booths for those who are unable to cast their votes at polling booths.

Since the provision is being made compulsory, punishment is also sought to be given to those who do not vote at elections. However, reward is also proposed to be given to those persons who vote at elections inspite of their illness or without any break.

Hence this Bill.

NEW DELHI;
March 23, 1998

T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the Election Commission shall make arrangements for mobile vans for the purpose of casting of votes by those persons who are not in a position to cast their votes at polling booths in each constituency. Clause 4 of the Bill provides for certificate of reward of value of rupees one thousand to those persons who inspite of their illness or physical incapacity exercise their right to vote at an election or to those who exercise their right at all elections held during a period of twenty years without any break.

This Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one crore per annum.

A non-recurring of about rupees one lakh is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill which will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 27 OF 1998

A Bill to provide employment or for means and resources for self-employment to at least one adult member of every family.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

- | | |
|--|--|
| Short title. | 1. This Act may be called Provision of Employment Act, 1998. |
| Definition. | 2. In this Act, unless the context otherwise requires, "family" means and includes wife, husband and minor children. |
| Central Government to provide employment. | 3. It shall be the duty of the Central Government to provide employment to atleast one adult member of every family. |
| An employee not to involve in any activity resulting in financial gains. | 4. Every person who has been provided with a job under Section 3 shall not involve himself in any activity other than his employment for financial or other gains. |
| Periodical promotions to employees. | 5. The Central Government shall evolve a process ensuring periodical promotions to all its employees on the basis of tests and their performance. |

6. The Central Government shall provide employment to the dependent of an employee, who had been provided with a job under section 3, after his retirement from service.

Dependents
to get
employment
after retirement.

7. The Central Government shall provide credit, subsidy and all other facilities or resources for self-employment to a family where it is not possible to provide employment to atleast one member of that family.

Family to
get benefits
in case of
unemployment
of any member.

8. The Central Government may make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

In India, poverty is one of the biggest problems. Even after fifty years of independence, we have not been able to contain the poverty. Although our country has progressed in many fields, yet it has failed to improve the standard of living of the people. There may be many reasons for poverty.

It has been observed that income of a small family as compared to its income in the year 1965 has not improved. There are a large number of families where there is not even a single earning member and most of them earn their livelihood by working as labourers, domestic servants, bonded labours, etc. Majority of population lives below poverty line. Our country being a welfare State should take necessary steps to improve the lot of the people and formulate schemes and plans to eradicate poverty from the country.

With this in view it is proposed to make a positive step towards eradicating poverty. It is proposed that atleast one adult member of every family should be provided with employment and where it is not possible to provide employment, the family should be given all necessary facilities for decent and reasonable livelihood.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 23, 1998

T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall provide employment to one adult member of every family. Clause 7 provides that the Central Government shall provide credit, subsidy and all other facilities or resources for self-employment to a family where it is not possible to provide employment. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India in implementing the provisions of the Bill. It is likely to involve an annual recurring expenditure of about rupees one thousand crore from the Consolidated Fund of India.

A non-recurring expenditure to the tune of one hundred crore is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. The matters in respect of which rules may be made are matters of procedure or detail only. The delegation of legislative power is, thus, of a normal character.

BILL NO. 24 OF 1998

A Bill further to amend the Cinematograph Act, 1952.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Cinematograph (Amendment) Act, 1998.

Short title.

37 of 1952.

2. For section 3 of the Cinematograph Act, 1952, (hereinafter to be referred to as the principle Act), the following section shall be substituted, namely:—

Substitution of
new section for
section 3.

"3. (1) For the purposes of sanctioning films for public exhibition, the Central Government shall, by notification in the Official Gazette, constitute a Board to be called the Board of Film Certification which shall consist of a Chairman, who shall be a woman, and not less than twelve and not more than twenty-five other members appointed by the Central Government:

Board for Film
Censors.

Provided that the Board shall consist of atleast two women members and two members who are experts in the field of film, arts or culture.

(2) The term of the Board shall be five years:

Provided that a minimum of one-third of the members of the Board shall not be reappointed in the Board to be reconstituted after every five years.

(3) The Chairman of the Board shall receive such salary and allowances as may be determined by the Central Government, and the other members shall receive such allowances or fees or attending the meetings of the Board as may be prescribed.

(4) The other terms and conditions of service of the members of the Board shall be such as may be prescribed."

Substitution of
new section for
section 5B.

3. For section 5B of the principle Act, the following section shall be substituted, namely:—

Principles for
guidance in
certifying
films.

"5B. (1) A film shall not be certified for public exhibition if, in the opinion of the authority competent to grant the certificate, the film or any part of it—

- (a) is against the interests of the sovereignty and integrity of India;
- (b) is against the security of the State;
- (c) is against interests of the secular character of the country;
- (d) is against the friendly relations with the foreign States;
- (e) degrades the image of the country in comparison to other countries;
- (f) is against the religious faith of any religion or preaches communalism or shows any religious faith with contempt in any manner;
- (g) is against public order, decency or morality;
- (h) depicts excess sex or vulgarity and projects women in an indecent manner;
- (i) contains violence or incites acts of violence; and
- (j) involves defamation or contempt of court or is likely to incite the commission of any offence.

(2) Subject to the provisions contained in sub-section (1), the Central Government may issue such direction as it may think fit setting out the principles which shall guide the authority competent to grant certificates under this Act in certifying films for public exhibition."

STATEMENT OF OBJECTS AND REASONS

Since the past few years, films in our country depict excess sex, vulgarity and violence and are corroding the moral values of the people and thereby creating a negative impact on the minds of the people, especially the youth. As a result, many crimes are committed. People try to perform the scenes which they witness in films.

The films are making inroads into our cultural, moral and traditional values. If this situation is allowed to persist, the whole society will be corrupted. Although there is a provision for censoring films before they are released for public exhibition, yet the scope for rejecting any film is very much limited and as a result many films escape from the scissors of the censors. Not only our own films, foreign films also add fuel to the fire.

The scope of the Censor Board should be widened very much to enable them to reject a film which in their opinion would spoil the minds of the youth. The association of women members in the Censor Board is minimal and, therefore, it is proposed to increase the strength of women members in the Censor Board so that they can prevent films which depict women in an indecent manner. Certain guidelines have been proposed in the Bill to enable the Censor Board to function effectively.

The Bill seeks to achieve the above objectives.

NEW DELHI;
March 23, 1998.

T. SUBBARAMI REDDY

BILL NO. 26 OF 1998

A Bill further to amend the Forest (Conservation) Act, 1980.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Forest (Conservation) Amendment Act, 1998.

Insertion of new section 3C.

2. After section 3B of the Forest (Conservation) Act, 1980, the following section shall be inserted, namely:—

69 of 1980.

Protection of rights over forests of inhabitants of hill areas.

“3C. (1) Nothing in this Act or in any other law for the time being in force in any part or whole of the territory of India shall be deemed to prohibit the inhabitants of hill areas in the vicinity of reserved forest or protected forest or in the vicinity of any other forest land, by whatever name called, from felling, cutting, sawing or removing trees including green trees or from taking timber and fodder or fetching water or using any other forest produce or from grazing rights or from stripping the bark or leaves from any tree or from quarrying of stones or from any other right or concession which they had been enjoying or which is recognised and settled as a right by the State Government, in such forest or forest land for their own *bonafide* use for the purpose of collecting fuel or for agriculture or for other domestic purposes.

(2) For the purposes of sub-section (1), the State Government shall grant licenses to *bonafide* users in such form and manner as it may, by notification in the Official Gazette, specify.

(3) Nothing in this section shall prohibit the State from imposing such conditions or making such regulations, including quantities of forest produce which the *bonafide* users may be entitled to, as are necessary for conservation and development of forests for public good.

(4) The provisions of this section shall have effect notwithstanding any judgment or order or decree of any court or tribunal or any authority contrary to the provisions of this section.”

STATEMENT OF OBJECTS AND REASONS

The Forest (Conservation) Act, 1980 was enacted with a view to checking increasing deforestation and environmental deterioration. The Act made the prior approval of the Central Government obligatory for de-reservation of reserved forests and also for use of forest land for non-forest purposes. Though, no one disputes the purpose for which the Act was enacted yet, no one can deny that the forests are inseparably associated with day to day life of the hill people. People of the hill regions of U.P. till recently enjoyed the right to graze cattle, take fuel wood, grass, stones, etc. from the reserved forests for their *bonafide* use. Repeated attempts were made to curtail the rights of hill people from time to time. The Forest Grievance Committee appointed by the British Government, which submitted its report in 1921, and consequently a report of Mr. V.A. Stowell, I.C.S. on land management system, which is accepted as law, recognised all the aforesaid rights of the hill people. However, by an order dated 12 December 1996, in Civil writ Petition No. 202 of 1995 T.N. Gowda Verman Thimmalpad versus Union of India and others the Hon'ble Supreme Court has directed that in hill areas, felling of trees will not be permitted in any forest, public or private, and this ban will not apply to permits granted to right holders for their *bonafide* personal use in Himachal Pradesh.

In the hill regions of Uttar Pradesh, approximately 40 thousand cu. mt. of timber per year was granted to the people as rights and concessions of forest produce at the time of settlement under the Indian Forests Act. Depriving people of hill regions of their customary rights as recognised by the Government has created hardships and discontentment amongst them. There is no fuel wood available in cremation grounds and for other *bona-fide* customary uses of the people of hill regions of Uttar Pradesh.

The proposed Bill is, therefore, an attempt towards restoring the customary rights as associated with forests of the people of hill regions while allowing the State Government to regulate such rights for the conservation of forests.

NEW DELHI;
March 24, 1998.

BACHI SINGH RAWAT

BILL No. 13 OF 1998

A Bill to provide for declaration and public scrutiny of assets of Ministers, Members of Parliament and Civil Servants.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Declaration of Assets by Ministers, Members of Parliament and Civil Servants Act, 1998.

Definitions.

2. In this Act, unless the context otherwise requires,—

(i) "asset" includes all properties, both movable and immovable, held by the Ministers or by the Members of Parliament or by the Civil Servants or by their dependents, legally or in *benami* within the country and/or abroad;

(ii) "Chairman" means Chairman of the Council of States;

(iii) "civil servant" means and includes a person appointed to public services and posts in connection with the affairs of the Union and who draws a basic salary of rupees five thousand or more per month;

(iv) "dependent" includes spouse, parents, sons and unmarried daughters;

(v) "Member of Parliament" means Member of the Council of States or of the House of the People, as the case may be;

(vi) "Minister" means Cabinet Minister of the Union Government and includes the Prime Minister, Minister of State and Deputy Minister;

(vii) "prescribed" means prescribed by rule made under this Act; and

(viii) "Speaker" means the Speaker of the House of the People.

3. (1) Every Minister shall, within one month of his appointment as such minister, submit to the Speaker or the Chairman, as the case may be, a return of all the assets possessed by him and his dependents, in such manner and form, as may be prescribed:

Declaration of assets by Ministers and Members of Parliament.

Provided that where the Minister is not a Member of either House of Parliament, he shall submit a return of all the assets possessed by him and his dependents to the Speaker within one month of the swearing in as such Minister under article 75 of the Constitution of India.

(2) Every Member of Parliament shall within one month of the date of his election as such member, submit to the Speaker or the Chairman, as the case may be, a return of all the assets possessed by him and his dependents in such manner and form, as may be prescribed.

4. Every civil servant shall, within a period of one month from the coming into force of this Act, furnish the particulars of all the assets possessed by him and his dependents to the prescribed authority, in such manner and form, as may be prescribed.

Declaration of assets by Civil Servants

5. (1) It shall be incumbent on the part of every Minister and every Member of Parliament to submit a return of the assets held by him and his dependents, within one month of the beginning of the next financial year, to the Speaker or the Chairman, as the case, may be.

Submission of annual returns.

(2) Every civil servant shall, throughout the term of his office, submit annual returns of the assets held or acquired by him and any of his dependents, within one month of the beginning of the next financial year to such authority of the Union Government, as may be prescribed.

6. A copy of the returns filed by Ministers and Members of Parliament shall be made available to any member of public on payment of such fee, as may be prescribed.

Returns filed by Ministers and Members of Parliament to be made available to the Public.

7. (1) A copy of the returns filed by civil servants under sub-section (2) of section 5 shall be submitted to the President who shall cause the same to be laid before each House of Parliament.

Returns filed by Civil servants to be laid before Houses of Parliament.

(2) A copy of all the declarations made by the civil servants under this Act shall be made available to any member of public on payment of such fee, as may be prescribed.

8. The Speaker or the Chairman, as the case may be, may announce the name of the Minister or Member of Parliament who fails to submit the returns according to the provisions of this Act.

Announcement of names of Ministers and Members of Parliament who fail to submit returns.

9. Any civil servant who fails to submit the returns according to the provisions of this Act shall be subject to such action, as may be prescribed.

Action against Civil servants who fail to submit returns.

10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters :—

(ii) the manner in which the declarations shall be scrutinised;

(iii) the action to be taken in case of declaration of assets furnished by a Member of Parliament or by Minister or by a civil servant is false;

(iv) the action to be taken in case of delayed declaration of assets by civil servants;

(v) any other matter that is necessary to carry on the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The last few years have witnessed the increase in political corruption. The involvement of names of Ministers and Legislators, not only at the Central level but also at the State levels, in corruption cases, has not only brought disgrace, discredit and regret to the esteemed organisations of Parliament, Central Executive, State Legislatures and State Governments but to make worse of all, has forced people to doubt the integrity and honesty, the basic tenets of the institution of democracy; associated with the political system. The faith of public in the institution of democracy is on the decline. To restore public faith in the political system, it is necessary that Ministers and Members of Parliament declare their assets regularly. Such a step will not only prohibit the misuse of political power but will also set an example for public morality which can be emulated by others. The members of Parliament are the representatives of the people. They should carry clean image before the public. Going by the prevailing political culture in India and the moral degeneracy that has of late set in our public life, there is need for a law that makes periodic declaration of assets by all Ministers and Members of Parliament compulsory.

The Civil servants have also amassed assets disproportionate to the known sources of their income. Very often such assets are held in *benami* or in the name of their family members. The arm of law does not extend to them in many cases. The departmental requirement of furnishing returns of property by civil servants is neither adequate nor effective. In any case, once a person chooses to work as a civil servant, his assets should be known to the Legislature and through them to the public whom the civil servants are supposed to serve. The Bill, therefore, provides for annual declaration of assets held or acquired by Ministers, Members of Parliament and civil servants as well as by their dependents in order to let the people know that their representatives in Parliament and civil servants do not have assets disproportionate to their known sources of income.

Hence this Bill.

NEW DELHI;
March 23, 1998.

BACHI SINGH RAWAT

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules to be framed will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 20 OF 1998

A Bill to provide for the appointment of a Commission to oversee the administration of the secretarial staff of the House of the People and for matters connected therewith.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows :—

1. This Act may be called the House of the People (Administration) Act, 1998.

Short title.

2. In this Act, unless the context otherwise requires, —

Definitions.

(a) "Commission" means the House of the People Commission constituted under section 3 of this Act;

(b) "House" means the House of the People;

(c) "Leader of the House" means the Prime Minister or a member of the Council of Ministers, who, being a member of the House, may be nominated by the Prime Minister for the purposes of this Act;

(d) "Leader of the Opposition" means a member of the House who is recognised by the Speaker as such or his nominee, who shall be a member of the House, and if there is no such leader, then the leader of the party in the Opposition having the largest number of members in the House;

(e) "Secretarial Staff" means the staff of the House of the People;

(f) "Secretariat" means the Secretariat of the House of the People; and

(g) "Speaker" means Speaker of the House of the People.

Constitution
and
Composition
of the
Commission.

3. (1) There shall be constituted a Commission to be known as the House of the People Commission to perform the functions conferred on it by this Act.

(2) The Commission shall be appointed by the House on a motion moved by the Leader of the House and adopted by the House.

(3) The Commission shall consist of the following :—

(a) the Speaker;

(b) the Deputy Speaker of the House;

(c) the Leader of the House;

(d) the Leader of the Opposition; and

(e) three members of the House to be elected by the system of proportional representation by means of a single transferable vote.

Time upto
which Speaker
and Leader of
the House
continue as
Members of
Commission.

4. The Speaker and the Leader of the House shall continue to be the members of the Commission until immediately before the assumption of the office by their respective successors.

Cessation of
membership
of the
Commission.

5. A member of the Commission other than the Speaker and the Leader of the House shall cease to be a member of the Commission if he ceases to be a member of the House.

Chairman of
the
Commission.

6. (1) The Speaker shall be the *ex-officio* Chairman of the Commission.

(2) While the office of the Speaker is vacant, the Deputy Speaker of the House shall function as the Chairman of the Commission and, if for any reason, the Speaker is unable to act as the Chairman of the Commission, the Deputy Speaker shall act as the Chairman of the Commission.

Appointment
of Secretary-
General.

7. (1) There shall be a Secretary-General of the House who shall be appointed by the President of India on the recommendation of the Commission.

(2) The Secretary-General shall be appointed from amongst those who have distinguished themselves and made their mark in the service of the House in various capacities in the Secretariat for not less than twenty years.

(3) The Secretary-General shall be the head of the Secretariat.

Vacation and
resignation of,
and removal
from, the
office of
Secretary-
General.

8. The office of the Secretary-General shall become vacant—

(a) On his attaining the age of superannuation, as may be fixed by the Commission;

(b) on his resignation in writing addressed to the President of India;

(c) on his removal from office by the President of India in the same manner as is provided for the removal of a Judge of the Supreme Court under clause (4) of article 124 of the Constitution.

Functions of
the
Commission.

9. Save as otherwise provided in this Act, the functions of the Commission shall include the followings :—

(a) to frame rules regulating the recruitment, appointment, promotion and other service conditions of the Secretary-General and officers and staff of the Secretariat;

(b) to adopt such service rules of the Government of India as it may deem fit;

(c) to appoint officers and staff on deputation to posts in the Secretariat from other services such as Judicial services or from office of the Comptroller and Auditor General or from State Legislatures;

(d) to determine the strength of the secretarial staff at various levels and their pay scales and other allowances;

(e) to ensure that the classification, grading, salaries, allowances and other conditions of service, including pension and other benefits, of the personnel in the Secretariat are kept generally in conformity with those of the personnel in other comparable services in the Government of India and also consistent with the service requirements of the House.

(f) to consider and decide appeals against the orders of the Speaker or Secretary-General, as the case may be, submitted by the officers and staff of the Secretariat;

(g) to prepare an estimate for each financial year of the expenses of the services of the House and of any other expenses incurred for the service of the House and lay them before the House;

(h) to appoint a member of the secretarial staff as "Finance Officer" who will be responsible for accounting for the sums paid out of money provided by Parliament for the service of the House; and

(i) to exercise all powers necessary to implement the provisions of clause (1) of article 98 of the Constitution of India towards the constitution of a separate, independent and autonomous Secretariat of the House.

10. (1) The Commission may delegate to the Speaker or Secretary-General any of its functions under this Act.

Delegation of functions of the Commission.

(2) Anything done by or in relation to a person, to whom functions are delegated under this section, in the discharge of functions of the Commission, shall have the same effect as if done by or in relation to the Commission.

(3) Any delegation of functions made by the Commission under this section or any amendment or revocation of such delegation shall be mentioned in the annual report of the Commission made under section 12.

(4) Notwithstanding anything contained in this section, the Commission shall retain the ultimate responsibility for considering any representation made, in relation to matters affecting the interests, in connection with the employment of the secretarial staff, by staff associations who are recognised by the Commission in respect of such staff, and for the conduct of consultations and negotiations, about such matters with those staff associations.

11. The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission, or by any defect in the appointment or nomination of any members of the Commission.

Validity of the proceedings of the Commissions.

12. The Commission shall as soon as possible, after the end of every financial year, prepare, print and present to the House a report on the exercise of its functions in that year.

Annual Report of the Commission.

13. (1) The Commission may make rules to regulate its procedure and conduct of its business.

Power to make rules.

(2) The Commission may, by notification in the official Gazette, make rules to regulate recruitment and conditions of service of the secretarial staff.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the House, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule, or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.

(4) Any notice of amendment to such rules given by a member shall stand referred to the Commission who shall consider it and make such changes in the rules as the Commission may consider fit.

(5) The final rule made by the Commission after taking into consideration the amendments suggested by the members shall be laid before the House and, thereafter, on the House agreeing to the final rule on a motion made by a member of the Commission, the rule or amendment to a rule, as the case may be, shall be promulgated by the Commission by notification in the official Gazette.

Transitional provisions.

14. All persons employed in the secretarial staff immediately before the coming into force of this Act, shall be treated, for all purposes, as if their appointment had been made by the Commission, unless the Commission decides otherwise.

Saving.

15. All rules, regulations and orders made and in force immediately before the coming into force of this Act, shall be deemed to have been made by the Commission and shall continue to be valid and operative unless modified or revoked by the Commission; so, however, anything contained therein being inconsistent with any provisions of this Act, shall be of no effect and be void to the extent of such inconsistency.

STATEMENT OF OBJECTS AND REASONS

The concept of an independent Secretariat of Parliament is an essential adjunct of Parliamentary democracy. The significance of this conceptualisation of a Secretariat independent of the Executive was fully realised in the 1920s when the then Central Legislative Assembly passed unanimously a resolution moved by Pandit Motilal Nehru and seconded by Lala Lajpat Rai. Later, Vithalbhai Patel ceaselessly endeavoured in this direction.

The independent position of the Secretariats of the Houses of Parliament was recognised by the makers of our Constitution when they considered it necessary to incorporate a separate and exclusive article (article 98) in the Constitution. This article envisages enactment by Parliament of a law to regulate the recruitment and conditions of service of persons appointed to the secretarial staff of the House. The enactment of such a legislation is long overdue.

The unique position of the Lok Sabha Secretariat demands, as it does, a special sense of dedication and impartiality from the secretarial staff in the discharge of their duties and requires a broad-based institutional arrangement representing the House to be statutorily made available to assist the Speaker in watching and safeguarding the interests of the secretarial staff in the service of the House and its members. This institutional arrangement is sought to be made by providing a House of the People Commission.

Hence this Bill.

NEW DELHI;
March 23, 1998.

G.M. BANATWALLA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for the constitution of a House of the People Commission. Its members are the members of the House of the People who would be discharging their duties in relation to the Commission as its Members. The expenditure towards the payment of their TA/DA, if any, would be a part of the normal expenditure of the House. The increase in the expenditure, if any, as a result of constituting the Commission would be a marginal one that would not be possible to be quantified in specific terms at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill seeks to confer on the Commission the power to make rules for carrying out the purposes of this Act. The matters in respect of which such rules may be made are matters of procedure and administrative details. The delegation of legislative power, is therefore, of a normal character.

BILL No. 14 OF 1998

A Bill to provide for withdrawal and prevention of all legal proceedings under the Terrorist and Disruptive Activities (Prevention) Act, 1987 which expired on 23 May, 1995 and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:

Short title and
commencement.

1. (1) This Act may be called the Terrorist Disruptive Activities (Prevention) (Withdrawal of Legal Proceedings) Act, 1998.

(2) It shall come into force at once.

Withdrawal
and prevention
of legal
proceedings.

2. Notwithstanding anything contained in the Terrorist and Disruptive Activities (Prevention) Act, 1987, (hereinafter referred to as the principal Act),—

28 of 1987.

(a) all investigations and legal proceedings pending or continuing and all orders made under such pending or continuing proceedings in accordance with the provisions of the principal Act shall be deemed to have lapsed or abated or been withdrawn on the date of coming into force of this Act;

(b) no investigation, prosecution or legal proceeding, whether pertaining to the previous operation of the principal Act or otherwise shall be instituted on or after the date of commencement of this Act; and

(c) all the accused facing prosecution and legal proceedings under the principal Act shall stand discharged on the date of commencement of this Act.

3. All designated courts constituted under the principal Act shall be deemed to have been abolished and such courts shall cease to function on and from the date of commencement of this Act.

Abolition of
designated
courts.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or in any instrument having effect by virtue of any other enactment.

Act to have
over-riding
effect.

STATEMENT OF OBJECTS AND REASONS

The Terrorist and Disruptive Activities (Prevention) Act, 1987 lapsed on 23rd May, 1995. The Act had been widely criticised as violative of all democratic legal norms. There was gross misuse and abuse of the Act leading to limitless sufferings of a large number of people.

Though the obnoxious Act has lapsed, still thousands of legal proceedings continue and a large number of persons, languish under detention. This situation, pursuant to sub-section (4) of section 1 of the undemocratic TADA Act, is a serious anachronism and a source of great suffering to the victims.

The Bill seeks to provide for the withdrawal of all legal proceedings under the draconian Act.

NEW DELHI;
March 23, 1998.

G. M. BANATWALLA

BILL NO. 25 OF 1998

A Bill to provide for adequate reservation in posts and services under the Central Government and its public sector undertakings and in higher educational institutions for the Scheduled Castes, the Scheduled Tribes, other backward classes and backward minorities and for matters connected therewith.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:

1. (1) This act may be called the Reservation (Services and Higher Education) Act, 1998.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appointing authority" means the authority empowered to make appointment to a service or a post in the Central Government or its undertaking;

(b) "backward minorities" means and includes persons belonging to Muslim, Christian, Sikh and such other minority communities who have been included in the list of other Backward Classes and such other groups or communities as may be recognised by the Central Government or State Government as backward minorities by notification in the Official Gazette;

(c) "Government establishment" means any office of the Central Government, public sector undertaking or statutory authority established under an Act of Parliament or a Corporation, an institution, an organisation or a society, engaged in any activities, fifty-one per cent. of whose capital or recurring expenditure is contributed directly or indirectly by the Central Government and shall include universities, affiliated colleges and educational institutions owned or aided by the Central Government.

(d) "higher education" means education at a level higher than the secondary level and shall include professional and technical training;

(e) "other backward classes" means other castes, classes or such groups of persons as may be recognised as other backward classes by the Central Government by notification in the Official Gazette and shall include backward minorities;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "recruitment year" means the calendar year during which recruitment is made;

(h) "Scheduled Castes" means the castes specified in the Constitution (Scheduled Castes) Order, 1950 made by the President of India under article 341 of the Constitution of India and as amended from time to time;

(i) "Scheduled Tribes" means the tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made by the President of India under article 342 of the Constitution of India and as amended from time to time.

Reservation in
posts and
services.

3. (1) Notwithstanding anything contained in any other law for the time being in force, Central Government shall reserve or cause to be reserved vacancies in posts and services in Government establishments for persons belonging to the Scheduled Castes, the Scheduled Tribes, other Backward Classes and backward minorities.

(2) The reservation for the persons belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes shall be in the same manner as is being reserved by the Central Government immediately before the commencement of this Act.

(3) While reserving the vacancies under sub-section (1), the Central Government shall, as far as practical adhere to the percentage of the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, and each of the backward minorities, as the case may be, is to the total population as recorded in the latest census.

(4) The vacancies reserved under this Act shall not be filled up by candidates other than those for whom they have been reserved unless otherwise prescribed in order to deal with any situation of non-availability of candidates to fill up the vacancies reserved for the various categories.

Explanation.— For the purpose of this Act, reservation shall include reservation in promotion.

Reservation in
higher
educational
institutions.

4. (1) Notwithstanding anything contained in any other law for the time being in force and subject to the rights of the educational institutions of minorities pursuant to article 30 of the Constitution of India, there shall be reservation of seats in higher educational institutions for students belonging to the Scheduled Castes, the Scheduled Tribes, other backward classes and for each of the backward minorities.

(2) The provisions of section 3 shall, as far as practical, apply to reservation of seats in higher educational institutions.

Relaxations in
recruitment.

5. In the matter of recruitment to reserved vacancies,

(a) the upper age limit prescribed for recruitment shall be relaxed by as many years as may be prescribed;

(b) no fee be charged for competitive examination; and

(c) candidates shall be paid prescribed travelling allowance for appearing in competitive examination or interviews thereof conducted by the Public Service Commission, Staff Selection Board/Commission or such other agency under the control of Central Government.

6. Every appointing authority of Government establishments and every authority that admits students in higher educational institutions shall furnish to the special officer for Reservations appointed under section 7, the Chairman of the National Commission for the Scheduled Castes and the Scheduled Tribes and the Chairman of the National Commission for the Minorities, an annual report in the prescribed manner and within the prescribed period, on appointments/admissions made under this Act and maintain such other records as may be prescribed.

Annual report.

7. (1) There shall be appointed a Special Officer for Reservations who shall be appointed by the President.

Special Officer
for reservations.

(2) It shall be the duty of the Special Officer for Reservations to investigate all matters relating to reservations under this Act and report to the President upon the working and implementation of the Act at such intervals as the President may direct and the President shall cause all such reports to be laid before each House of Parliament.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks not only to codify the present policy of reservations available to the Scheduled Castes, the Scheduled Tribes and the other Backward Classes but also to extend reservation in posts and services and in higher educational institutions to persons belonging to the backward minorities. The prevalent condition and the continuous declining trend in the position of the minorities is appalling. The facts and the figures presented by the report of the High-Power Panel on Minorities Constituted by Government of India irresistibly demand reservation for minorities in posts and services and in admissions in higher educational institutions. Only then can the imperatives of social justice be met to usher in an equitable society.

Hence this Bill.

NEW DELHI;
March 23, 1998.

G. M. BANATWALLA

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for the establishment of the office of a Special Officer for Reservations. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of twenty-five lakh per annum.

It is also like to involve a non-recurring expenditure of about rupees ten lakh.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Class 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 33 OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1998.

Short title.

2. In article 15 of the Constitution, after clause (4), the following clause shall be added, namely:—

Amendment of article 15.

"(5) Notwithstanding anything in this Constitution, save the provisions of articles 25, 26, 28 and 29, the State shall, in exercise of its authority, under clauses (3) and (4) of this article, have free and complete power to decide in its discretion the nature and extent of any special provision, including the percentage of reservation, if any, made to give effect to any special provision."

3. In article 16 of the Constitution,—

Amendment of article 16.

(i) in clause (4A), for the words "the Scheduled Castes and the Scheduled Tribes" substitute "the Scheduled Castes, the Scheduled Tribes and the backward classes of citizens"; and

(ii) after clause (4A), the following clause shall be added, namely:—

"(4AA) Notwithstanding anything in this Constitution,—

(a) the State shall, in exercise of its authority under clauses (4) and (4A) of this article, have free and complete power in regard to the

identification of a class or classes of its citizens and in regard to the percentages of reservation made for any or all of such backward classes.

Explanation.—The expression "free and complete power" shall include the free and complete power to decide in its discretion whether the benefit of reservation may or may not apply to any specific appointments or posts and also whether the benefit of reservation may or may not be subject to any restriction the State may deem fit without in any way affecting the operation of the provision contained in sub-clause (b) of this clause; and

(b) the State shall not deny benefit of reservation to any section of a class identified as a backward class of citizens on economic consideration."

Amendment of
the Ninth
Schedule.

4. In the Ninth Schedule to the Constitution, after entry 257A and before the Explanation, the following entry shall be inserted, namely:—

"257B. The Kerala State Backward Classes (Reservation of Appointments or Posts in the Services under the State) Act, 1995."

STATEMENT OF OBJECTS AND REASONS

Reservation of seats in educational institutions and of appointments or posts in services are key factors in a policy directed towards securing social justice for various sections of the society. The practice of reservation, has a long history, particularly in the South. Articles 15(4), 16(4) and 16(4A) form the constitutional basis for reservations in the policy of social justice. However, some recent judicial pronouncements have created certain difficulties. Reservations have been hedged by certain exclusions and restrictions. These exclusions and restrictions seriously impair and fracture the policy of social justice.

2. In *Indira Sawhney and others versus Union of India and other* (AIR 1993 SC 477), the Supreme Court held that the total reservations under article 16(4) should not exceed fifty per cent.

3. Judicial pronouncements have placed certain sections outside the purview of reservation and have also led to the denial of benefit of reservation to certain sections of the Backward Classes, styled as the 'creamy layer', on extraneous economic considerations. These restrictions and exclusions not only upset the age-long schemes of reservations in States, particularly in Tamil Nadu and Kerala, but are also destructive of any effective policy of reservation and social justice.

4. The Bill seeks to restore the derailed policy of reservation by providing that the State shall have free and complete power (i) to decide, in its discretion, the nature and extent of any special provisions made pursuant to articles 15(3) and 15(4) and (ii) to decide, in its discretion, whether the benefit of reservation, made pursuant to clauses (4) and (4A) of article 16, may or may not apply to any specific appointments or posts and also whether the benefit of such reservations may or may not be subject to any restrictions. The Bill also seeks to provide that the State shall not deny benefit of reservation to any section of the backward class, on economic consideration.

5. Reservation in promotion available to the Scheduled Castes and the Scheduled Tribes is also ought to be extended to Backward Classes.

6. Clause 4 of the Bill seeks to bring the Kerala State Backward Classes (Reservation of Appointments or Posts in the Service under the State) Act, 1995 within the purview of the Ninth Schedule to the Constitution so that it gets due protection in regard to judicial review. Earlier, the Constitution (Seventy-sixth Amendment) Act, 1994 had placed the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the services under the State) Act, 1993, in the Ninth Schedule.

The Bill seeks to achieve the above objectives.

NEW DELHI;
March 23, 1998.

G.M. BANATWALLA.

BILL No. 17 OF 1998

A Bill to provide for measures to control population in the country and for matters connected therewith.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Population Control Act, 1998.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "child" includes an illegitimate child but does not include an adopted child;

(b) "custom" means any usage which has been continuously and uniformly being observed for a long time by the people and which has now acquired the force of law amongst any community in any area, tribe, group or family;

(c) "financial institution" means any banking or finance lending company, corporation, firm or society in which the Central Government holds not less than fifty-one per cent. of shares;

(d) "Government company" means any company, corporation or society in which the Central Government holds not less than fifty-one per cent. of shares; and

(e) "Government service" means any public service in connection with the affairs of the Central Government and includes service in any civil, defence or all India service of the Union or service in any Government company or local bodies in Union territories.

3. Any person—

Small Family norm.

(a) who has two or more than two living children shall not procreate any more child after a period of one year from the date of commencement of this Act; and

(b) who has less than two living children on the date of commencement of this Act, shall not procreate more than two living children.

4. After section 8A of the Representation of the People Act, 1951, the following section shall be inserted, namely:—

Insertion of new section 8B in Act No. 43 of 1951.

"8B. (1) A person shall be disqualified if he procreates more than two living children:

Disqualification on ground of not following small family norm.

Provided that the person shall not be disqualified if he, within a period of one year from the date of commencement of the Population Control Act, 1998, procreates another living child and thereby the number of living children of that persons increases to more than two.

(2) The disqualification referred to in sub-section (1) shall not apply in case of persons having more than two living children on the date of commencement of the Population Control Act, 1998."

5. Any person who is in Government service, if violates the provisions of section 3, shall not be given any further increment or promotion during his service.

Punishment to Government employees.

6. Any person who is running his own company, firm, society or corporation, if violates the provisions of section 3,—

Punishment to individuals.

(a) shall not be allowed to avail of any loan or facility of any kind from any Government company or financial institution.

(b) shall not be entitled to undertake any contract with any financial institution, Government company or the Central Government; and

(c) shall not be entitled to have facilities of drawing ration from public distribution system and cooking gas from a Government company.

7. (1) Any person who procreates only one child and gives an undertaking that he shall not procreate another child, he shall be—

Incentive for small family.

(a) given preference in Government services;

(b) provided with a house by the Central Government at subsidised cost; and

(c) given ration items from fair price shops at a reduced price.

(2) Any person, who has been given benefit under sub-section (1), if procreates another child, the benefits given to him shall be withdrawn immediately.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have over-riding effect.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Exploding population of the country is one of the major hurdles in the progress of the country. If we can check the increase in population then we can expect to give reasonable standard of living to the people of the country.

Some strong measures are required to check this menace. Some benefits should also be given to the people to encourage them to adopt small family norm.

The Bill provides for some harsh measures for those who do not come forward to help in achieving the goal of population control. Alongside, some benefits are provided to those who adopt the small family norm.

Hence this Bill.

NEW DELHI;
March 23, 1998

BACHI SINGH RAWAT

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides that any person who procreates only one child and gives an undertaking that he shall not procreate another child shall be provided with accommodation at subsidised cost and ration items from fair price shops at reduced price by the Central Government. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred crore per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 19 OF 1998

A Bill to provide for unemployment allowance to all educated unemployed persons and for matters connected therewith.

BE it enacted by Parliament in the Forty-ninth year of the Republic of India as follows:—

1. (1) This Act may be called the Unemployment Allowance Act, 1998.

(2) it extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

2. The Central Government shall provide unemployment allowance to all educated unemployed youth at the rate of—

Unemployment
allowance.

(i) rupees one thousand per month to those who have attained the age of seventeen years and have passed tenth class examination;

(ii) rupees one thousand five hundred per month to those who have attained the age of eighteen years and have studied upto higher secondary and above;

(iii) rupees two thousand per month to those who possess technical qualifications in engineering, medicine, etc. or have some other professional qualification.

Unemployment allowance to be paid till employment.

3. The unemployment allowance referred to in section 2 shall be paid to a person till he secures employment.

Repayment of unemployment allowance.

4. Every person who has been provided with unemployment allowance under provisions of this Act shall, on securing employment, repay the total unemployment allowance which he had received to the Government at the rate of—

(i) rupees fifty per month, if he was receiving unemployment allowance of rupees one thousand per month;

(ii) rupees one hundred per month, if he was receiving unemployment allowance of rupees one thousand five hundred per month; and

(iii) rupees one hundred fifty, if he was receiving unemployment allowance of rupees two thousand per month.

Power to make rules.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The number of unemployed youth is on the increase. The Government has failed to generate employment in the country. The unemployed youth have become restless and have started taking law into their own hands. They often fall victims to anti-social elements. Suicides by unemployed youth have also been reported in some cases.

The most unfortunate fact is that even those who possess technical qualifications like engineering, etc. face the same problem. Liberalisation of economic policy in the country has also failed to generate employment in the country. Therefore, it is absolutely necessary that the Government should come up with some schemes for providing employment or in the alternate provide relief to all unemployed persons till they secure employment. Although, the assistance sought to be given will not be sufficient for them but nevertheless it will be a great help and a source of confidence to them. It has also been provided that unemployed youth who get unemployment allowance shall have to repay back the allowance received by them to the Government after they secure employment.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 27, 1998

R. SAMBASIVA RAO

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for payment of unemployment allowance to all educated unemployed youth according to their qualifications.

The Bill, therefore, if enacted will involve an expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees three hundred crore is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to the matters of detail only.

The délegation of legislative power is of a normal character.

BILL NO. 28 OF 1998

A Bill to provide for the protection and welfare of tobacco growers.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Tobacco Growers (Benefit) Act, 1998.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, Appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "tobacco grower" means any person who cultivates tobacco;

(b) "small and marginal tobacco growers" shall mean tobacco growers who are declared as such under this Act; and

(c) "prescribed" means prescribed by rules made under this Act.

Central
Government to
procure tobacco
and fix
remunerative
price thereof.

3. The Central Government shall procure through the Tobacco Board all the tobacco produced in the country and shall also fix remunerative price of tobacco every year after taking into consideration the increase in prices of tobacco seeds, pesticides and fertilisers, total investment capacity of tobacco growers and such other factors, as may be prescribed.

4. The Central Government shall endeavour to export all the excess tobacco produced in the country during a year. Export of excess tobacco.
5. The entire tobacco grown by the small and marginal tobacco growers shall be compulsorily insured free of cost by the Central Government against natural calamities, decline in yields of tobacco produced, fall in prices of tobacco and such other eventualities, as may be prescribed. Insurance.
6. (1) The Central Government shall establish a fund to be known as the Tobacco Growers Benefit Fund. Establishment of Tobacco Growers Benefit Fund
- (2) The Central Government and State Government shall contribute to the Fund in such ratio, as may be prescribed.
- (3) The fund shall be utilized for the following purposes:
- (a) to extend financial help to the small and marginal farmers in such cases, as may be prescribed; and
- (b) giving financial assistance to tobacco growers for purchasing tobacco seeds, pesticides and fertilizers and in cases of low yields or fall in prices of tobacco or destruction of their crops due to rains, cyclones and floods.
7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.
-

STATEMENT OF OBJECTS AND REASONS

Tobacco is one of the commercial crops being produced in Andhra Pradesh and other States. The estimated area under tobacco cultivation is 6600 hectares and most of which is under FCV tobacco.

Due to problems being faced for marketing the produce, the farmers are discouraged to raise the crop as a result of which the area under tobacco cultivation is being reduced. The tobacco grower is a victim of fall in the prices and also of other natural calamities like storms, heavy rains etc. Therefore, there is an urgent need to bring a law ensuring the tobacco growers of the Government's help in the event of excess production or fall in prices or damage to crops. Therefore, the creation of a fund and provision of insurance cover for tobacco growers will help them immensely.

NEW DELHI;
March 23, 1998.

R. SAMBASIVA RAO

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the purchase of tobacco from tobacco growers by the Central Government through the tobacco Board of India.

Clause 5 provides that the entire tobacco grown by small and marginal tobacco growers shall be compulsorily insured free of cost by the Central Government against natural calamities, etc.

Clause 6 provides for the establishment of a Tobacco Growers Benefit Fund to which the Central Government and State Governments shall contribute in such ratio as may be prescribed.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees three hundred crore per annum.

A non-recurring expenditure to the tune of rupees four hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of detail only. The delegation of legislative power is of normal character.

BILL No. 22 OF 1998

A Bill to provide for the protection and welfare of chilli growers.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Chilli Growers (Benefit) Act, 1998.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) "chilli grower" means any person who cultivates chilli;

(b) "small and marginal chilli growers" shall mean chilli growers who are declared as such under this Act; and

(c) "prescribed" means prescribed by rules made under this Act.

3. The Central Government shall procure through the Spices Board all the chilli produced in the country and shall also fix remunerative price of chilli every year after taking into consideration the increase in prices of chilli seeds, pesticides and fertilizers, total investment capacity of chilli growers and such other factors, as may be prescribed.

Short title,
extent and
commencement.

Definitions.

Central
Government to
procure chilli
and fix
remunerative
price thereof.

Export of
excess chilli.

4. The Central Government shall endeavour to export all the excess chilli produced in the Country during a year.

Insurance.

5. The entire chilli grown by the small and marginal chilli growers shall be compulsorily insured free of cost by the Central Government against natural calamities, decline in yields of chilli produced, fall in prices of chilli and such other eventualities, as may be prescribed.

Establishment
of Chilli
Growers
Benefit Fund.

6. (1) The Central Government shall establish a fund to be known as the Chilli Growers Benefit Fund.

(2) The Central Government and State Government shall contribute to the fund in such ratio, as may be prescribed.

(3) The fund shall be utilized for the following purposes:—

(i) to extend financial help to small and marginal chilli growers in such cases, as may be prescribed;

(ii) giving financial assistance to chilli growers for purchasing chilli seeds, pesticides and fertilizers and in cases of low yields or fall in prices of chillies or destruction of their crops due to rains, cyclones and floods.

Power to make
rules.

7. The Central Government may, by notification in the official gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Chilli is grown in many parts of the country. The production of chilli is the highest in Andhra Pradesh. However, incidence of leaf curl and bacterial wilt adversely affect the production of chilli. Further, lack of availability of different varieties of chilli and the limited availability of hybrid technology has also affected the production of chilli. India has immense potential to grow chillies. However, the cost of cultivation of chilli is high mainly because of high cost of labour and plant protection chemicals. The chilli growing farmer invests huge amount of money on its cultivation but the remunerative price which he gets is not sufficient for him. The result is that the chilli grower does not sell his produce willingly. The main reason behind the chilli growers getting non-remunerative prices is availability of excess stock of chilli in the market. There is, therefore, an urgent need to bring a law assuring the chilli growers of Government's help in the event of excess production or fall in prices of chilli and also to ensure that their minimum needs are looked after by the Government. The creation of a proposed fund and the provision of insurance cover will help the chilli growers immensely.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 25, 1998.

R. SAMBASIVA RAO

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the purchase of chilli from chilli growers by the Central Government through the Spices Board.

Clause 5 provides that the entire chilli grown by small and marginal chilli growers shall be compulsorily insured free of cost by the Central Government against natural calamities, etc.

Clause 6 provides for the establishment of a Chilli Growers Benefit Fund to which the Central Government and State Government shall contribute in such ratio as may be prescribed.

The Bill therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees three hundred crore per annum.

A non-recurring expenditure to the tune of rupees four hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

BILL NO. 29 OF 1998

A Bill to provide for the protection and welfare of cotton growers.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows :—

Short title,
extent and
commencement.

1. (1) This Act may be called the Cotton Growers (Benefit) Act, 1998.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "cotton grower" means any person who cultivates cotton;

(b) "small and marginal cotton growers" shall mean cotton growers who are declared as such under this Act; and

(c) "prescribed" means prescribed by rules made under this Act.

Central
Government to
procure cotton
and fix
remunerative
price thereof.

3. The Central Government shall procure through the Cotton Corporation of India all the cotton produced in the country and shall also fix remunerative price of cotton every year after taking into consideration the increase in prices of cotton seeds, pesticides and fertilizers, total investment capacity of cotton growers and such other factors, as may be prescribed.

4. The Central Government shall endeavour to export all the excess cotton produced in the country during a year. Export of excess cotton.
5. The entire cotton grown by the small and marginal cotton growers shall be compulsorily insured free of cost by the Central Government against natural calamities, decline in yields of cotton produced, fall in prices of cotton and such other eventualities, as may be prescribed. Insurance.
6. (1) The Central Government shall establish a Fund to be known as the Cotton Growers Benefit Fund. Establishment of Cotton Growers Benefit Fund.
- (2) The Central Government and State Governments shall contribute to the Fund in such ratio, as may be prescribed.
- (3) The Fund shall be utilized for the following purposes :—
- (a) to extend financial help to the small and marginal farmers in such cases, as may be prescribed;
- (b) giving financial assistance to cotton growers for purchasing cotton seeds, pesticides and fertilizers and in cases of low yields or fall in prices of cotton or destruction of their crops due to rains, cyclones and floods.
7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.
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STATEMENT OF OBJECTS AND REASONS

The market fluctuations, nature's fury and Government's neglect have driven the cotton growers into a crisis. Declining yields and falling prices are making the lives of the poor farmers miserable. The agony that gripped the cotton growers in Prakasham district of Andhra Pradesh had even caused suicides in 1987. Andhra Pradesh is one of the three major cotton producing States alongwith Gujarat and Maharashtra. Cotton is mainly produced in Guntur, Prakasham, Kurnool, Mahabub Nagar, Warangal and Adilabad districts of Andhra Pradesh. The costs of cotton inputs have shot up increasing the total capital investment of the farmers. The peasant organisations are demanding remunerative prices of cotton for cotton growers. But instead of getting remunerative prices, the cotton growers have to face shocking experiences as prices in different markets in the State have generally declined by 20 per cent. as compared to the previous year.

The main reason behind the cotton growers getting non-remunerative prices is availability of excess stock of cotton in the market. There is, therefore, an urgent need to bring a law assuring the cotton growers of Government's help in the event of excess production or fall in prices and also to ensure that their minimum needs are looked after by the Government. The creation of a fund and a provision of insurance cover for cotton growers will help them immensely.

Hence this Bill.

NEW DELHI;
March 25, 1998

R. SAMBASIVA RAO

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the purchase of cotton from cotton growers by the Central Government through the Cotton Corporation of India. Clause 5 provides that the entire cotton grown by small and marginal cotton growers shall be compulsorily insured free of cost by the Central Government against natural calamities, etc. Clause 6 provides for the establishment of a Cotton Growers Benefit Fund to which the Central Government and State Governments shall contribute in such ratio, as may be prescribed. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees two hundred crore per annum.

A non-recurring expenditure to the tune of rupees three hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

BILL No. 32 OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1998.

Short title.

2. In Part IVA of the Constitution, after article 51A, the following article shall be inserted, namely:—

Insertion of
new article
51B:

“51B. It shall be the duty of every political party and candidate, whether such candidate is set up by any political party or not, to ensure that votes are not sought in the name of any religion, religious symbol or by inciting religious feelings of the people in any election to the House of the People, or Legislative Assembly of a State or Union territory or any local body.”.

Duty of
candidates and
political
parties during
elections.

STATEMENT OF OBJECTS AND REASONS

It has been observed that during elections some political parties and candidates are seeking votes in the name of religion or by inciting religious feelings. It will have an adverse effect on the society if such trend continues. It is, therefore, necessary to check such moves by amending the Constitution.

It is accordingly proposed to make it the fundamental duty of every political party and candidate, to ensure that votes are not sought by them in any election in the name of religion or by inciting religious feelings. Although the violation of this duty is not punishable under the existing system of Constitution, the political parties and candidates will be morally bound by such provision in the Constitution.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 31, 1998.

MOHAN SINGH

635/G/F-12B

BILL NO. 16 OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows :—

1. This Act may be called the Constitution (Amendment) Act, 1998.

Short title.

2. In article 174 of the Constitution, in clause (1), for the words “six months”, the words “three months” shall be substituted.

Amendment of
article 174.

STATEMENT OF OBJECTS AND REASONS

At present, as per the provisions of the Constitution, there can be a gap of six months between the last sitting of a session and the date appointed for its first sitting in the next session of the State Legislature. However, it has been seen that the sessions of the State Legislatures are not being held regularly. Taking advantage of the long gap, the State Governments are functioning arbitrarily and thereby ignoring the basic principle of responsibility to the State Legislatures. As the sessions of the State Legislatures are not being held regularly, the issues concerning the States which should have been raised in the concerned State Legislature are being raised in Parliament.

To ensure regularity in holding sessions and make the State Governments more responsible to the Legislatures, it is suggested that the gap between two sessions of the State Legislatures should not exceed three months.

The Bill, accordingly, seeks to amend the Constitution.

NEW DELHI;
March 31, 1998

MOHAN SINGH

BILL NO. 23 OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth year of the Republic of India as follows :—

- | | |
|---|---|
| 1. This Act may be called the Constitution (Amendment) Act, 1998. | Short title. |
| 2. After article 29 of the Constitution, the following article shall be inserted, namely :—

“29A. The State shall provide uniform, free and compulsory education upto primary school level to all citizens.” | Insertion of article 29A.

Provision of uniform, free and compulsory education. |
| 3. Article 45 of the Constitution shall be omitted. | Omission of article 45. |

STATEMENT OF OBJECTS AND REASONS

Even after so many years of independence, we have not been able to provide education to all citizens. Poor people cannot afford to send their children to school for want of means. It should be the responsibility of the Government to provide education to all citizens atleast upto primary school level. Although, there is a provision in the Constitution that all children until they attain the age of fourteen years shall be provided free and compulsory education by the State, it is not enforceable inasmuch as it is in the Directive Principles of State Policy.

Moreover, we find that there are different types of schools imparting education with varying standards. There should be uniformity in education so that all students get equal opportunity to pursue their career or in the matter of employment.

The Bill, accordingly, seeks to amend the Constitution with a view to including the right to uniform, free and compulsory education upto primary school level as a Fundamental Right. The object of the Bill will go a long way in eradicating illiteracy.

Hence this Bill.

NEW DELHI;
March 31, 1998.

MOHAN SINGH

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for uniform, free and compulsory primary education to all citizens. To implement the provisions of the Bill, some schools have to be opened and teachers have to be appointed in those schools. There will be some expenditure in respect of salaries and allowances of teachers, free supply of books and stationery to students, etc. As far as Union Territories are concerned, the whole expenditure will be met by the Central Government. The State Governments will bear the expenditure from their respective Consolidated Funds in connection with the implementation of the provisions of the Bill although some financial assistance may be extended by the Central Government. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

It is estimated that an annual recurring expenditure of about rupees ten crore is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees twenty crore is also likely to be involved.

BILL No. 34 OF 1998

A Bill to provide for reservation of vacancies in posts for Scheduled Castes and Scheduled Tribes in Universities and Colleges.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title. **1.** This Act may be called the Universities and Colleges (Reservation of Vacancies in Posts for Scheduled Castes and Scheduled Tribes) Act, 1998.

Definitions. **2.** In this Act, unless the context otherwise, requires,—

(a) 'college' includes any college which is owned or funded, either wholly or partly, by a State Government or a Union territory administration and also a privately owned college;

(b) 'post' means and includes the post of a professor, lecturer or librarian or any other non-teaching and administrative staff in any University or college; and

(c) 'University' has the same meaning as is assigned to it in section 2(f) of the University Grants Commission Act, 1956.

3. Of the total number of posts in all Universities and colleges, there shall be reserved sixteen per cent. for the Scheduled Castes and eight per cent. for the Scheduled Tribes.

Reservation of posts in Universities and colleges for Scheduled Castes and Scheduled Tribes.

4. After section 13 of the University Grants Commission Act, 1956, the following sections shall be inserted, namely:—

Insertion of new sections 13A and 13B in Act No. 3 of 1956.

“13A. (1) The Commission shall set up a Committee, consisting of such number of members of the Commission as the Chairman of the Commission may deem fit, for the purpose of monitoring the implementation of the provisions of the Universities and Colleges (Reservation of Vacancies in Posts for Scheduled Castes and Scheduled Tribes) Act, 1998.

Setting up of a Committee to monitor reservation for Scheduled Castes and Scheduled Tribes in Universities and colleges.

(2) The Committee set up under sub-section (1) shall submit an annual report to the National Commission for the Scheduled Castes and Scheduled Tribes as regards the implementation of the provisions of the above said Act.

13B. If any University is found guilty of violating the provisions of the Universities and Colleges (Reservation of Vacancies in Posts for Scheduled Castes and Scheduled Tribes) Act, 1998, the Commission shall withhold from such University the grants proposed to be made out of the fund of the Commission”.

Consequences of failure of Universities for not ensuring reservations for Scheduled Castes and Scheduled Tribes.

5. If any University or college violates the provisions of this Act, the recognition or affiliation of such University or college shall be cancelled by the University Grants Commission or the State Government or Union territory administration, as the case may be.

Cancellation of recognition of Universities and colleges.

6. The provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

Act to have over-riding effect.

7. The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India provides for reservation of seats for Scheduled Castes and Scheduled Tribes in Lok Sabha and in State Legislative Assemblies in proportion to their population in the country. Like wise, posts in Government services are reserved for them.

At present, the reservation in posts and services for Scheduled Castes and Scheduled Tribes in Universities and colleges is not strictly adhered to and there is no proper check in this regard. Although the Universities and Colleges are autonomous in nature, their expenditure is wholly or partly met by the concerned Government.

It is accordingly proposed to make reservation compulsory in all posts in all Universities and Colleges for Scheduled Castes and Scheduled Tribes and to provide for cancellation of their recognition or affiliation in the event of violation of this provision. A provision has also been made for constitution of a Committee to look into the proper implementation of the provisions of the Bill.

Hence this Bill.

NEW DELHI;
March 31, 1998.

MOHAN SINGH

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of the legislative powers is of a normal character.

BILL No. 21 of 1998

A Bill further to amend the Indian Penal Code.

BE it enacted by Parliament in the Forty-ninth year of Republic of India as follows:—

Short title.

1. This Act may be called the Indian Penal Code (Amendment) Act, 1998.

Amendment of
Section 376.

2. In sub-section (2) of section 376 of Indian Penal Code,—

45 of 1860.

- (i) for the words "ten years", the words "twenty years" shall be substituted; and
- (ii) the proviso shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Several atrocities are being committed against women. It has been noticed that many Government officers who indulge in the act of molestation and rape manage to escape from the grip of law by taking advantage of their post and official position and also due to the lack of evidence. At present, a provision of ten years imprisonment has been made for such type of crimes. The purpose of this Bill is to enhance the period of imprisonment from ten years to twenty years to make the punishment more stringent.

Hence this Bill.

NEW DELHI;
March 31, 1998.

PRABHU DAYAL KATHERIA

BILL NO. 31 OF 1998

A Bill to provide for scrutiny of assets of Ministers, Members of Parliament and Public Servants.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Scrutiny of Assets of Ministers, Members of Parliament and Public Servants Act, 1998.

Definitions.

2. In this Act, unless the context otherwise requires:—

(i) "asset" includes all properties, both movable and immovable, held by the Ministers or by the Members of Parliament or by the Public Servants or by their dependents, legally or in *benami* within the country and/or abroad;

(ii) "Chairman" means the Chairman of the Council of the States;

(iii) "Public Servant" means and includes a person appointed to public services and posts in connection with the affairs of the Union and who draws a basic salary of rupees five thousand or more per month;

(iv) "dependent" includes spouse, parents, sons and unmarried daughters;

(v) "Member of Parliament" means Member of the Council of States or of the House of the People, as the case may be;

(vi) "Minister" means Cabinet Minister of the Union Government and includes the Prime Minister, Minister of State and Deputy Minister;

(vii) "prescribed" means prescribed by rules made under this Act; and

(viii) "Speaker" means the Speaker of the House of the People.

3. (1) Every Minister shall, within one month of his appointment as such Minister, submit to the Speaker or the Chairman, as the case may be, a return of all the assets possessed by him and his dependents, in such manner and form, as may be prescribed:

Declaration of assets by Ministers and Members of Parliament.

Provided that where the Minister is not a Member of either House of Parliament, he shall submit a return of all the assets possessed by him and his dependents to the Speaker within one month of the swearing in as such Minister.

(2) Every Member of Parliament shall within one month of the date of his election as such member, submit to the Speaker or the Chairman, as the case may be, a return of all the assets possessed by him and his dependents in such manner and form, as may be prescribed.

4. Every Public Servant shall, within a period of one month from the coming into force of this Act, furnish the particulars of all the assets possessed by him and his dependents to the prescribed authority, in such manner and form, as may be prescribed.

Declaration of Assets by Public Servants.

5. (1) It shall be incumbent on the part of every Minister and every Member of Parliament to submit a return of the assets held by him and his dependents, within one month of the beginning of the next financial year, to the Speaker or the Chairman, as the case may be.

Submission of annual returns.

(2) Every Public Servant shall, throughout the term of his office, submit annual returns of the assets held or acquired by him and any of his dependents, within one month of the beginning of the next financial year, to such authority of the Union Government, as may be prescribed.

6. A copy of the returns filed by Ministers and Members of Parliament shall be made available to any member of public on payment of such fee, as may be prescribed.

Returns filed by Ministers and Members of Parliament to be made available to the public.

7. (1) A copy of the returns filed by Public Servants under sub-section (2) of section 5 shall be submitted to the President who shall cause the same to be laid before each House of Parliament.

Returns filed by the Public servants to be laid before the Houses of Parliament.

(2) A copy of all the declarations made by the Public Servants under this Act shall be made available to any member of public on payment of such fee, as may be prescribed.

8. The Speaker or the Chairman, as the case may be, may announce the name of the Minister or Member of Parliament who fails to submit the returns according to the provisions of this Act.

Announcement of names of Ministers and Members of Parliament who fail to submit returns.

9. Any Public Servant who fails to submit the returns according to the provisions of this Act shall be subject to such action, as may be prescribed.

Action against public servants who fail to submit returns.

10. The Central Government shall constitute a Committee comprising of a former Judge of the Supreme Court as its Chairman and four other Members.

Constitution of a Committee.

Examination of
assets by the
Committee.

11. The Committee shall examine the assets held by the Ministers, the Members of Parliament and the Public Servants within the country and abroad and the contributions received by them or their family members from abroad.

Seizure and
confiscation of
illegal assets.

12. All the illegal assets or contributions possessed/received by a Minister, Member of Parliament and a Public Servant shall be seized and transferred to the Government treasury.

Punishment.

13. Any Minister or a Member of Parliament or Public Servant found to possess illegal assets or received illegal contributions, shall be punishable with imprisonment for a term which shall not be less than ten years.

Power to make
rules.

14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:—

(i) the form in which the declaration of assets shall be furnished;

(ii) the manner in which the declaration shall be scrutinised;

(iii) the action to be taken in case of declaration of assets furnished by a Member of parliament or by Minister or by a Public Servant is found false;

(vi) the action to be taken in case of delayed declaration of assets by Public Servants; and

(v) any other matter that is necessary to carry out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The last few years have witnessed the increase in political corruption. The involvement of names of Ministers and Legislators, not only at the Central level but also at the State levels, in corruption cases, has not only brought disgrace and discredit to the esteemed organisations like Parliament, Central Executive, State Legislatures and State Governments but worst of all, has forced people to doubt the integrity and honesty, the basic tenets of the institution of democracy, of people associated with the political system. The faith of public in the institution of democracy is on the decline. To restore public faith in the political system, it is necessary that Ministers and Members of Parliament declare their assets regularly. Such a step will not only prohibit the misuse of political power but will also set an example for public morality which can be emulated by others. The Members of Parliament are the representatives of the people. They should carry clean image before the public. Going by the prevailing political culture in India and the moral degeneracy that has of late set in our public life, there is a need for a law that makes periodic declaration of assets by all Ministers and Members of Parliament compulsory.

The Public servants have also amassed assets disproportionate to the known sources of their income. Very often, such assets are held in *benami* or in the name of their family members. The arm of law does not extend to them in many cases. The departmental requirement of furnishing returns of property by public servants is neither adequate nor effective. In any case, once a person chooses to work as a public servant, his assets should be known to the Legislature and through them to the public whom the public servants are supposed to serve. The Bill, therefore, provides for annual declaration of assets held or acquired by Ministers, Members of Parliament and public servants as well as by their dependents in India or abroad in order to let the people know that their representatives in Parliament and public servants do not have assets disproportionate to their known sources of income.

Hence this Bill.

NEW DELHI;
March 31, 1998.

PRABHU DAYAL KATHERIA

FINANCIAL MEMORANDUM

Clause 10 of the Bill provides that the Central Government shall constitute a Committee consisting of a former judge of the Supreme Court and four other members to examine the assets held by Ministers, Members of Parliament and Officers within the country/abroad and contributions received by them from abroad. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India in respect of expenses involved on the Committee and also on allowance, etc. that will be payable to the Chairman and other Members of the Committee. It is estimated that a recurring expenditure of about rupees five lakh is likely to be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five lakh is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules to be framed will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL, No. 10 OF 1998

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Representation of the People (Amendment) Act, 1998.

Insertion of
new section 8B.

2. After section 8A of the Representation of the People Act, 1951, the following section shall be inserted, namely:—

Disqualification
on ground of
criminal
conviction,
etc.

"8B. (1) Notwithstanding anything contained in this Act or any other law for the time being in force, any person, who has been convicted of indulging in any criminal activities or supporting or promoting the cause of any criminal activities or abetting any criminal activities or, who is convicted of promoting or supporting or abetting those persons who indulge in anti-national activities, shall be disqualified.

Explanation.—For the purposes of this section "criminal activities" means and includes such criminal activity the punishment for which is not less than six months.

(2) If any political party knowingly fields any such person, as is referred to in sub-section (1), to contest election, the recognition or registration, as the case may be, of that political party shall be withdrawn by the Election Commission.

(3) The Election Commission shall cause to investigate whether any of the candidates who are contesting the election belongs to a category of persons referred to in sub-section (1)."

STATEMENT OF OBJECTS AND REASONS

In the recent years it has been observed that candidates with criminal background who themselves indulge or support persons involved in anti-national activities, have been contesting elections both to Parliament and State Legislatures. Due to this, the whole political system has been criminalised. These candidates belong to certain political parties, which, without being aware of their criminal background, give tickets to them for contesting elections to Parliament and State Assemblies. Money power, muscle power and corrupt means play important role.

It is, therefore, proposed that no candidate with a criminal background should be allowed to contest any election. Any party, which knowingly gives tickets to such candidates, should be de-registered/de-recognised. Such a step would cleanse the political system of its evils.

Hence this Bill.

NEW DELHI;
March 31, 1998

PRABHU DAYAL KATHERIA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the Election Commission shall cause to investigate whether any of the candidates who are contesting election have been convicted or indulging in any criminal activities, etc. The process of such investigation of contesting candidates may require the Election Commission to appoint some staff for the purpose. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure to the tune of rupees two lakh would be involved out of the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

S. GOPALAN,
Secretary General.
